STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION OF SEP -2 PM FILE NO.: 10 CVS 14871

WAKE COUNTY

THE NORTH CAROLINA STATE BAR, COUNTY, C.S.

Petitioner

v.

TEMPORARY RESTRAINING ORDER

SYBIL H. BARRETT, Attorney,

Respondent

THIS MATTER came on to be heard and was heard by the undersigned Judge of Superior Court of Wake County pursuant to a Motion for Temporary Restraining Order and Petition for Preliminary Injunction filed by the North Carolina State Bar. Petitioner, the North Carolina State Bar was represented by Leanor Bailey Hodge. Respondent, Sybil H. Barrett, was notified of this hearing by telephone and electronic mail message but she was not present in court. Based upon the verified motion and petition with attachments, and the evidence introduced at the hearing, the Court makes the following:

FINDINGS OF FACT

- 1. Respondent, Sybil H. Barrett ("Barrett"), was licensed to practice law in North Carolina in 2003.
- 2. Barrett provided the State Bar with the following address of record: P.O. Box 560794, Charlotte, NC 28256.
- 3. On 8 July 2010, the North Carolina State Bar attempted to serve Barrett with a Letter of Notice and Subpoena for Cause Audit by certified mail addressed to Barrett at the address of record provided by her to the State Bar. This letter was returned to the State Bar as undeliverable as addressed.
- 4. After additional investigation, the State Bar determined that the address of Barrett's personal residence is 10828 Fountaingrove Road, Charlotte, NC. On 4 August 2010, a State Bar investigator attempted to serve Barrett at her personal residence but was unsuccessful in this attempt.
- 5. On 23 August 2010, Barrett accepted service of the Letter of Notice and Subpoena for Cause Audit when she appeared for a duly noticed deposition in another matter. However, Barrett refused to sign a release authorizing the State Bar to obtain her trust account bank records.

- 6. On 26 August 2010, Barrett sent an "Objection to Subpoena for Cause Audit" to the Office of Counsel indicating her objection to providing the bank records sought pursuant to the Bar Subpoena for Cause Audit.
- 7. The State Bar's investigation indicates that during a real estate closing on 27 January 2009 Barrett collected \$1,675.19 from seller Adam Ciarla to pay 2008 Mecklenburg County property taxes and then failed to pay these property taxes. As of 30 June 2010 these property taxes were still unpaid. Barrett had two (2) trust accounts: (i) Bank of America trust account ending in no. 1892, and (ii) Wachovia Bank trust account ending in no. 2141. Barrett's Bank of America trust account was closed on 31 January 2010 with an average daily balance of \$417.96 which is less than \$1,675.19. The average daily balance in Barrett's Wachovia Bank trust account did not exceed \$302.03 which is less than \$1,675.19.
- 8. The foregoing facts establish that funds held in trust by Barrett have been mishandled in violation of Rule 1.15-2 of the Revised Rules Professional Conduct.
- 9. A need for prompt action exists to ensure that any additional client funds entrusted to Barrett are not mishandled to the client's detriment.

Based upon the foregoing findings, the Court makes the following:

CONCLUSIONS OF LAW

- 1. Prompt action, pursuant to N.C. Gen. Stat. § 84-28(f), is necessary to preserve the status quo while the State Bar conducts an analysis of Barrett's trust and operating accounts and to ensure that no client funds are mishandled.
- 2. Barrett should be enjoined from accepting any further funds from or on behalf of clients or other individuals in a fiduciary capacity, from withdrawing funds from and/or writing checks against any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to withdraw funds from and/or draw a check on any account in which client or fiduciary funds have been deposited, except as expressly authorized by this order.
- 3. To assist the State Bar's analysis of her trust and operating accounts, Barrett should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited.
- 4. Barrett should not be permitted to serve in any fiduciary capacity, including trustee, escrow agent, settlement agent, personal representative, executor or attorney-in-fact until further order of this Court.

THEREFORE, IT IS HEREBY ORDERED:

1. Sybil H. Barrett is enjoined from serving in any fiduciary capacity,
including trustee, escrow agent, settlement agent, personal representative, executor or
attorney-in-fact; receiving any funds from or on behalf of clients or other individuals in a
fiduciary capacity; writing checks against or otherwise disbursing or withdrawing funds
from any account in which client or fiduciary funds have been deposited; and/or directing
or permitting any employee or agent to draw a check on or otherwise disburse or
withdraw funds from any account in which client or fiduciary funds have been deposited.

2.	This matter	is sche	duled for	a hearing	on the	State	Bar's	Petition	for a
Preliminary	Injunction on	the	3 day	of Some	es , 20)10 at	10:00	A .M i	in the
Wake Count	y Courthouse,	Courtro	om 10-C	in Raleig	h, Nort	h Caro	olina.		

- 3. Sybil Helena Barrett, or any other person having custody or control of her trust account records, immediately produce to the North Carolina State Bar upon request any of Barrett's bank records for accounts into which any trust or fiduciary funds have been deposited, including but not limited to bank statements, canceled checks, deposit slips, identification of deposited items, client ledger sheets and any other records relating to the receipt and disbursement of client or fiduciary funds.
- 4. If Barrett does not have possession of the minimum records regarding trust funds required to be maintained pursuant to Rule 1.15-3 of the Rules of Professional Conduct, that she direct the bank(s) where her trust accounts(s) are maintained to copy and transmit any such missing records directly to the North Carolina State Bar, at Barrett's expense.
- 5. That Barrett, or any other person having custody or control over records described herein, produce to the North Carolina State Bar for inspection and copying all records and documents relating to individuals or entities for whom Barrett has provided legal services, including but not limited to client files, billing statements, memoranda and receipts. Current client files shall be produced within 24 hours of demand by the State Bar and closed client files shall be produced within 3 days of demand by the State Bar.

6. This Temporary Restraining Order shall remain in effect until the 13 day of 500 day of 2010 unless extended by further orders of this Court.

THIS the 2 day of September, 2010 at 3.37 P.M.

Wake County Superior Court Judge